

AES Agremax**Issue:**

Our concerns regarding potential releases from "Agremax," an aggregate of ash generated by the AES coal fired power plant in Guayama, PR (the "AES facility") have been largely allayed. Agremax is now covered by the EPA CCR Rule, which precludes uncontrolled land placement.

Status:

In 2015, AES petitioned the Agency to stay the effective date of the CCR rule. We now understand AES is building an impervious liner under the Agremax pile at its Guayama power plant. Once completed, the pile will no longer be regulated as an "existing landfill" under the rule, although the rule requirements for beneficial reuse of Agremax will remain in effect. EQB is working on publication of new regulations incorporating the CCR rule and it is in discussion with CASD and ORCR/OGC to this effect.

Options and Recommendations:

DECA will remain in close coordination with EQB and, as necessary, ORCR, concerning the applicability of CCR rule requirements and other developments.

Background:

At our urging, EQB issued a September 2014 Resolution retracting its earlier Resolutions regarding Agremax and requiring that Agremax be either disposed or used with prior EQB approval. Also at our and EQB's urging, the PR Electric Power Authority and AES entered into an amended power purchase agreement in July 2015 that allowed on-island disposal that had been restricted under the previous agreement. However, many municipalities, including Humacao and Ponce, where lined privately owned landfills are located that previously received Agremax, have issued disposal bans in opposition to the power purchase agreement and the Environmental Quality Board's decision.

The EPA CCR rule was finalized in April 2015 and became effective October 2015.

A CWA Consent Order was issued by the Region in March 2015 to address stormwater permit violations, and AES has complied.